

APPENDIX A

THIRD AMENDMENT TO THE ESTABLISHING CONTRACT
FOR THE
E-470 PUBLIC HIGHWAY AUTHORITY

This THIRD AMENDMENT TO THE ESTABLISHING CONTRACT FOR THE E-470 PUBLIC HIGHWAY AUTHORITY ("this Contract") is made and entered into as of this 28th day of July, 1989, pursuant to Colo. Const. Art. XIV, Sec. 18(2), title 30, C.R.S., title 31, C.R.S., appropriate municipal charter provisions, and part 5 of article 4, title 43, C.R.S., by and between ADAMS COUNTY, a body politic and corporate and a political subdivision of the State of Colorado, ARAPAHOE COUNTY, a body politic and corporate and a political subdivision of the State of Colorado, DOUGLAS COUNTY, a body politic and corporate and a political subdivision of the State of Colorado, the CITY OF AURORA, a municipal corporation and political subdivision of the State of Colorado, and the TOWN OF PARKER, a municipal corporation and political subdivision of the State of Colorado (singularly or collectively "the Governmental Unit(s)" or "the Party(ies)").

RECITALS

WHEREAS, the large population and population growth within the Denver metropolitan region, the significant and growing demand for construction of beltways within the Denver metropolitan region to facilitate traffic movement and the

inadequacy of current transportation facilities to meet that demand, the division of the Denver metropolitan region into a variety of incorporated and unincorporated areas, the need to coordinate planning and construction of beltways or other transportation improvements to serve regional needs, and the limited availability of state and federal funds for such purposes, have caused the Colorado general assembly to enact the "Public Highway Authority Law" in part 5 of article 4, title 43, C.R.S. ("the Act"); and

WHEREAS, it is the stated intention of the Colorado general assembly that public highway authorities be formed to finance, construct, operate, or maintain all or a portion of a beltway or other transportation improvements in, inter alia, the Denver metropolitan region which, because of the cost or the location thereof in the jurisdiction of more than one municipality or county, cannot feasibly be financed, constructed, operated, or maintained by a municipality or county acting alone; and

WHEREAS, it is also the intention of the Colorado general assembly that public highway authorities not be formed to assume, directly or indirectly, the traditional role of counties or municipalities to finance, construct, operate, or maintain local arterial or collector streets; and

WHEREAS, a public highway denominated "E-470" has been proposed for construction around the northern, eastern and southern perimeters of the Denver metropolitan area; and

WHEREAS, the Governmental Units comprise territory located generally on the northern, eastern and southern perimeters of the Denver metropolitan area, and are desirous of entering into this Contract in order to establish a public highway authority, pursuant to the Act, to finance, construct, operate, or maintain E-470; and

WHEREAS, a public highway authority denominated the "E-470 Public Highway Authority" ("the Authority") was created by contract dated as of January 13, 1988, as amended ("the Establishing Contract"), by and between Adams County, Arapahoe County and Douglas County, and, by amendment to the Establishing Contract dated as of March 2, 1988, the City of Aurora, to finance, construct, operate or maintain E-470; and

WHEREAS, pursuant to paragraph 13 of the Establishing Contract, the Board of Directors of the Authority may include additional parties to the Establishing Contract upon such terms and conditions as the Board deems appropriate, subject to appropriate amendment of the Establishing Contract by all the Governmental Units; and

WHEREAS, the Town of Parker has requested to become a party to the Establishing Contract and a member of the Authority; and

WHEREAS, the Board of Directors of the Authority, at a special meeting held January 5, 1989, approved the addition of the Town of Parker as a party to the Establishing Contract and a member of the Authority, subject to the following

conditions: (1) Payment of a \$25,000 entry fee to permit equitable contribution vis-a-vis existing members of the Authority; (2) A commitment on the part of such new member to require right-of-way dedication to the Authority at no cost in the context of its zoning and/or land use regulations as provided herein; and (3) Subject to the amendment of the Establishing Contract for the Authority permitting the addition of such member by all the current members of the Authority; and

WHEREAS, the execution of this Contract by the Governmental Units would implement Colo. Const. Art. XIV, Sec. 18(2), and is essential to the continued economic growth of the Denver metropolitan region, is in the public interest, and will promote the health, safety, and welfare of the citizens of this state by securing for them more adequate transportation;

NOW, THEREFORE, in consideration of the mutual promises and benefits herein expressed, and for other good and valuable consideration, the receipt and sufficiency of which is hereby freely acknowledged, the Governmental Units hereby covenant and agree as follows:

COVENANTS AND AGREEMENTS

1. Amendment of Establishing Contract. In accordance with the provisions of paragraphs 10 and 13 thereof, the Establishing Contract is hereby amended in the following particulars: The Town of Parker is admitted as a Governmental Unit and Party to the Establishing Contract and the E-470

Public Highway Authority, with all the rights, privileges and duties associated therewith, and the initial paragraph, the recitals, the body and the signature pages of the Establishing Contract shall be deemed amended to reflect this action; provided, however, that such action is subject to and conditioned upon the satisfaction by such Governmental Unit of the conditions imposed by the Board of Directors of the Authority at its special meeting held January 5, 1989, and as specifically provided in this Contract.

2. Right-of-Way Dedication. By virtue of this Contract all Governmental Units agree to require right-of-way dedication for the E-470 highway. Land acquired by the Governmental Unit shall be dedicated to the Authority after the Governmental Unit is satisfied with the design, configuration, construction plans and construction timing of E-470 and the right-of-way acquired by the Governmental Unit. In requiring right-of-way dedication for the E-470 highway in the context of their zoning and/or land use regulations, the Governmental Units shall not be required to commit an unconstitutional taking of property without just compensation, and are not required by this Contract to compensate a property owner for E-470 right-of-way. In the context of annexations of land into their respective boundaries, the municipal Governmental Units shall require E-470 right-of-way dedication as a condition to annexation.

3. Prior Provisions Effective. Except as specifically amended hereby, all the terms and provisions of the Establishing Contract shall remain in full force and effect.

4. Counterpart Execution. This Contract may be executed in several counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument.

ADAMS COUNTY

By: [Signature]

Title: Chairman

ATTEST:



By: [Signature]

Title: Deputy Clerk

STATE OF COLORADO

COUNTY OF ADAMS

)
) ss.
)

The foregoing instrument was acknowledged before me this 21st day of June, 1988, by James M. Nelms and Lucy Trujillo as Acting Chairman and Deputy Clerk of Adams County.

Witness my hand and official seal.

My commission expires 2-17-92.

[Signature]
Notary Public

ARAPAHOE COUNTY

By: Thomas Eggert
Title: Chairman, Board of County
Commissioners

ATTEST:

By: Marjorie Page
Title: Clerk to the Board

STATE OF COLORADO)
COUNTY OF Arapahoe) ss.

The foregoing instrument was acknowledged before me this
28th day of March, 1988, by Thomas R. Eggert
and Marjorie Page as Chairman of the Board and
Clerk to the Board of Arapahoe County.

Witness my hand and official seal.

My commission expires April 12, 1991.

Catherine Smith
Notary Public

DOUGLAS COUNTY

By: [Signature]

Title: [Signature]

ATTEST:

By: Nonda W. Bailey, Deputy

Title: Deputy Clerk & Recorder

STATE OF COLORADO

COUNTY OF _____

)

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ss.

)

The foregoing instrument was acknowledged before me this
____ day of _____, 1988, by _____
and _____ as _____ and
_____ of _____.

Witness my hand and official seal.

My commission expires _____.

Notary Public

CITY OF AURORA

By: Paul E. Tauer
Title: Mayor

ATTEST:

By: Dana L. Young
Title: Deputy City Clerk

STATE OF COLORADO

COUNTY OF Arapahoe

)
) ss.
)

The foregoing instrument was acknowledged before me this
26th day of June, 1988, by Paul E. Tauer
and _____ as _____ and
_____ of _____.

Witness my hand and official seal.

My commission expires 5-3-93.

Judith D. Nelson
Notary Public

TOWN OF PARKER

By: Ann Waterman
Title: Mayor

ATTEST.

By: Carol Baumgartner
Title: Town Clerk

STATE OF COLORADO)
COUNTY OF Douglas) ss.

The foregoing instrument was acknowledged before me this
28th day of July, 1989, by Ann Waterman
and Carol Baumgartner as Mayor and
Town Clerk of the Town of Parker.

Witness my hand and official seal.

My commission expires _____ My Commission Expires
September 3, 1990

[Signature]
Notary Public